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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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DOUG LITTLE – Chairman

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MAY 12 2016

AZ CORP COMMISSION  
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IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO UPGRADE AN  
EXISTING CROSSING OF THE UNION PACIFIC  
RAILROAD COMPANY AT AVONDALE  
BOULEVARD IN AVONDALE, ARIZONA,  
USDOT NO. 741-799P.

DOCKET NO. RR-03639A-14-0315

PROCEDURAL ORDER

**BY THE COMMISSION:**

On August 27, 2014, the Arizona Department of Transportation (“ADOT”) filed with the Arizona Corporation Commission (“Commission”) an application for approval for the Union Pacific Railroad Company (“Railroad”) to upgrade an existing crossing at Avondale Boulevard in the City of Avondale (“City”), Maricopa County, Arizona at USDOT No. 741-799P.

On September 12, 2014, a Procedural Order was issued establishing various filing deadlines and scheduling a hearing for December 3, 2014.

On October 23, 2014, ADOT filed documentation that it had provided public notice of the application and hearing thereon.

On November 20, 2014, the Commission’s Safety Division, Railroad Safety Section Staff (“Staff”) filed a Memorandum recommending approval of the application.

On December 3, 2014, a full public hearing was convened as scheduled. ADOT, the Railroad, and Staff appeared through counsel.

On January 22, 2014, the Commission issued Decision No. 74905 which approved the application and ordered, among other things, the railroad to complete the crossing upgrades within fifteen months of the effective date of that Decision. Based on the effective date of Decision No. 74905, the deadline for completing the crossing upgrades was April 21, 2016.

On April 1, 2016, the Railroad filed a Request for Additional Time to Complete Crossing

1 Improvements at Avondale Boulevard ("Motion") requesting that the deadline for completing the  
2 crossing upgrades be extended from April 21, 2016, to October 21, 2016. In its Motion, the Railroad  
3 states that construction at the crossing has been delayed due to various reasons, including contractor  
4 work schedules, materials procurement efforts, and the availability of the Railroad's crossing  
5 construction gangs. In addition, the Railroad states that utility installations adjacent to the crossing  
6 took longer than was originally anticipated.

7 On April 26, 2016, Staff filed a Response to Motion for Extension of Time to Construct  
8 Railroad Crossing Improvements stating that Staff has no objection to the requested extension of  
9 time.

10 On April 28, 2016, the City filed an Objection to Union Pacific's Request for Additional Time  
11 to Complete Crossing Improvements at Avondale Boulevard arguing that a six month extension of  
12 time will cause an undue burden to the City. The City states that it is in the process of constructing  
13 additional complementary crossing improvements that cannot be completed until certain components  
14 of the Railroad's crossing improvements are finalized. According to the City, its complementary  
15 improvements must be completed by June 13, 2016, in order for the City to stay on schedule and  
16 avoid incurring additional expenses. The City requests that any extension of time granted to the  
17 Railroad explicitly provide that the Railroad must proceed with construction in such a way as to  
18 allow the City to complete its complimentary crossing improvements by June 13, 2016.

19 To date, the Railroad has not filed a Reply in support of its Motion. It is therefore appropriate  
20 to schedule a procedural conference to discuss the Railroad's Motion and the City's objection thereto.

21 IT IS THEREFORE ORDERED that a **procedural conference** shall be held on **May 18,**  
22 **2016, at 10:00 a.m.,** or as soon thereafter as is practical, at the Commission's offices, 1200 West  
23 Washington Street, Hearing Room No. 1, Phoenix, Arizona.

24 IT IS FURTHER ORDERED that, **prior to the** above scheduled **procedural conference, the**  
25 **Railroad shall meet with the City** to discuss whether the Railroad can proceed with construction at  
26 the crossing in such a way as to allow the City to complete its complimentary improvements by June  
27 13, 2016.

IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), each party to this matter may opt to receive service of all filings in this docket, including all filings by parties and all Procedural Orders and Recommended Opinions and Orders/Recommended Orders issued by the Commission's Hearing Division, via email sent to an email address provided by the party rather than via U.S. Mail. To exercise this option, a party shall:

1. Ensure that the party has a valid and active email address to which the party has regular and reliable access ("designated email address");
2. Complete a Consent to Email Service using the form available on the Commission's website ([www.azcc.gov](http://www.azcc.gov)) or a substantially similar format;
3. File the original and 13 copies of the Consent to Email Service with the Commission's Docket Control, also providing service to each party to the service list;
4. Send an email, containing the party's name and the docket number for this matter, to [HearingDivisionServicebyEmail@azcc.gov](mailto:HearingDivisionServicebyEmail@azcc.gov) from the designated email address, to allow the Hearing Division to verify the validity of the designated email address;
5. Understand and agree that service of a document on the party shall be complete upon the sending of an email containing the document to the designated email address, regardless of whether the party receives or reads the email containing the document; and
6. Understand and agree that the party will no longer receive service of filings in this matter through First Class U.S. Mail or any other form of hard-copy delivery, unless and until the party withdraws this consent through a filing made in this docket.

IT IS FURTHER ORDERED that a party's consent to email service shall not become effective until a Procedural Order is issued approving the use of email service for the party. The Procedural Order shall be issued only after the party has completed steps 1 through 4 above, and the Hearing Division has verified receipt of an email from the party's designated email address.

IT IS FURTHER ORDERED that a party's election to receive service of all filings in this matter via email does not change the requirement that all filings with the Commission's Docket Control must be made in hard copy and must include an original and 13 copies.


1 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
2 Communications) continues to apply to this proceeding.

3 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court  
4 Rules 31, 38, and 42 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac*  
5 *vice*.

6 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
7 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona  
8 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at  
9 all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
10 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
11 Administrative Law Judge.

12 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,  
13 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by  
14 ruling at hearing.

15 DATED this 12<sup>th</sup> day of May, 2016.

16  
17   
18 SCOTT M. HESLA  
19 ADMINISTRATIVE LAW JUDGE

20 Copies of the foregoing mailed/delivered  
this 12<sup>th</sup> day of May, 2016 to:

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